

Prosecuting Attorneys' Council of Georgia

CaseLaw UPDATE

WEEK ENDING OCTOBER 10, 2014

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THIS WEEK:

- **Judicial Comment**
- **Miranda Rights**

Judicial Comment

Freeman v. State, S14A0880 (10/6/14)

The Supreme Court reversed Eddie L. Freeman's convictions for malice murder and a firearms offense, holding that the trial court made an improper comment requiring a new trial. At trial, when the State sought to introduce a recording of appellant's first interview, Freeman objected, and the State responded that the trial court had "already found at the previous hearing that the statement was freely and voluntarily given and that no *Miranda* warnings were necessary as the defendant was not a suspect at that time." The court simply overruled the objection and admitted the recorded statement. When the State sought to introduce a recording of a second interview, Freeman again objected and the State responded that "the issue of voluntariness has already been addressed and the State would request the court allow this into evidence." The court responded: "All right. I find that the statement was freely and voluntarily given as previously ruled. I'll admit it over the objection of the defense." Freeman argued that this constituted an improper comment on the evidence by the court, violating O.C.G.A. § 17-8-57.

Determining the voluntariness and, consequently, the admissibility of a defendant's statement in a criminal case is a two-step process. Initially, the trial court addresses the

issue outside the presence of the jury and, if the statement is determined to be voluntary, it is admitted for the jury to make the ultimate determination as to its voluntariness. Having made the determination that a statement is voluntary, the trial court should simply admit it into evidence and not inform the jury of its ruling. A trial court's ruling before the jury on the voluntariness of a defendant's statement, even when coupled with an explanation as to the roles played by the trial court and the jury when the voluntariness of a defendant's statement is questioned, amounts to a violation of O.C.G.A. § 17-8-57.

Miranda Rights

Ingram v. State, A14A1388 (9/23/14)

The Court of Appeals affirmed appellant's convictions for armed robbery and possession of a firearm during the commission of a crime. On appeal, appellant alleged that the trial court erred in denying his motion to suppress his statement on the ground that he should have been read his *Miranda* rights a second time prior to being interviewed by a different Detective. At the beginning of his interview with the appellant, Zeric informed Ingram of his *Miranda* rights. Zeric's interview lasted approximately 20 minutes starting 8 or more minutes before 4:00 p.m., and Black testified that he first made contact with Ingram between 4:30 and 5:30 p.m. The evidence presented at the Jackson-Denno hearing and at trial shows that the break between the interviews could have been less than 30 minutes. The trial court denied the motion, reasoning that Zeric properly informed appellant of his *Miranda* rights, that there is no duty to repeat the *Miranda* warnings when separate interviews

are part of a continuing interrogation, and that Black's interview of appellant was part of a continuing interrogation. The Court of Appeals held that the trial court was not clearly erroneous when it concluded that the two interviews were part of a continuing interrogation.